

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1760-04  
Bill No.: Perfected HS for HB 668  
Subject: Roads and Highways, Transportation, Transportation Dept.  
Type: Original  
Date: April 3, 2003

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
General Revenue*	(Unknown greater than \$161,549)	(Unknown greater than \$176,062)	(Unknown greater than \$176,062)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Unknown greater than \$161,549)</b>	<b>(Unknown greater than \$176,062)</b>	<b>(Unknown greater than \$176,062)</b>

\*Unknown cost is subject to appropriations and personnel request by the Inspector General.

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2004</b>	<b>FY 2005</b>	<b>FY 2006</b>
Highway Fund**	Unknown greater than \$330,849	Unknown greater than \$397,019	Unknown greater than \$397,019
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown greater than \$330,849</b>	<b>Unknown greater than \$397,019</b>	<b>Unknown greater than \$397,019</b>

\*\* Unknown savings for equipment and expenses not expected to exceed \$100,000.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

#### **226.192 Inspector General Position**

Officials with the **Office of State Courts Administrator** assume this section of the proposal would have no fiscal impact on their agency.

Officials with the **Office of Administration-Budget and Planning (BAP)** assume this proposal could have substantial impact on General Revenue for the cost of the Inspector General and subsequent staff. BAP further assumes that the provisions in 226.192 allow the inspector general to request assistance from BAP and its staff. BAP assumes this could create an unknown cost for their agency to fund personnel to assist the Inspector General. **Oversight** assumes that BAP could assist the Inspector General with existing resources.

Officials with **Department of Transportation (MoDOT)** were not available for a response, however from a similar proposal their agency stated that this section could allow the Transportation Inspector General to hire needed staff and MoDOT assumes that there will be significant and on-going request for information including reports and explanations of inquiries. The additional required items for discussion by the Joint Committee on Transportation Oversight in Section 21.795.4, will require more frequent reporting.

ASSUMPTION (continued)

Therefore, MoDOT assumes that one additional Senior Business Specialist will be needed to coordinate information requests/responses for the new Transportation Inspector General and to coordinate the additional information to be discussed by the Joint Committee on Transportation Oversight.

**Oversight** assumes that MoDOT could handle the additional requests and reporting with existing staff.

**Oversight** assumes this section of the proposal could create a position of an independent Inspector General and that the activities of the Inspector General could include investigations, complaint and contract reviews. For fiscal note purposes, **Oversight** uses the following personnel cost but notes that the full cost of the office is subject to the needs of the Inspector General and future appropriations.

Personal Service

Inspector General	\$86,868
Executive Secretary	\$33,380

FY 04-Cost (Ten Months)

Salaries (2 FTE)	\$102,712
Fringe Benefits	\$41,567
Equipment (one time)	\$10,120
Expenses	\$4,150
Travel Expenses	_____ \$3,000

FY 05-Cost (no growth assumed)

Salaries (2 FTE)	\$120,248
Fringe Benefits	\$48,664
Expenses	\$4,150
Travel Expenses	\$3,000

FY 06-Cost (no growth assumed)

Salaries (2 FTE)	\$120,248
Fringe Benefits	\$48,664
Expenses	\$4,150
Travel Expenses	\$3,000

ASSUMPTION (continued)

**226.199 Current MoDOT Inspector General**

**Oversight** assumes this section of the proposal would eliminate the current Inspector General and subsequent staff within MoDOT. The following savings to the Highway Fund are based on current salary information.

Senior Investigator	\$43,764
Special Assignments Liaison	\$48,216
Asst Special Reviews Coordinator	\$52,092
Senior Investigator	\$41,304
Inspector General	<u>\$83,808</u>
Total Salaries	\$269,184

FY 04 (10 months) Savings

Salaries	\$224,320
Fringe Benefits (47.49%)	\$106,529
Equipment and Expenses	Unknown

FY 05 and 06 Savings

Salaries	\$269,184
Fringe Benefits	\$127,835
Expenses	Unknown

**226.096 Contract Arbitration:**

Officials with the **Office of State Courts Administrator** assume this proposal would have no fiscal impact on their agency.

Officials with MoDOT were not available for a response, however, they did respond to a similar proposal from this session. Their agency assumed this section of the proposal could provide that in any case against MoDOT, as defendant, arising from a contract awarded pursuant to Section 226.130.1(9) and involving a dispute or controversy in excess of \$25,000 must (upon the request of any party)- be settled by arbitration and that judgment on the award of the arbitrator may be entered in the Circuit Court of Cole County, MO.

ASSUMPTION (continued)

Officials with MoDOT assume this proposal would have an unknown negative impact for the following reasons:

-MoDOT assumes this proposal could interfere with the MHTC claims process to reach a final state transportation agency decision. Such a decision and the authority to make a final decision is a requirement of 23 CFR §1.3 to have a program which complies and thus be eligible for federal participation. Final decision authority specifically on contractor claims for contract adjustments is also clearly contemplated as a required part of MHTC's program by the provisions of 23 CFR §635.124, Participation in contract claim awards and settlements.

However, the bill could be read to say that, "Anytime MHTC is made a defendant to a case concerning construction contract, if the dispute exceeds \$25,000, there can be a demand made for binding arbitration." In other words, a contractor could simply file a suit making MHTC a defendant to a case and then file a demand for arbitration, ignoring the claims process entirely. If allowed that would violate the federal program requirements because there would be no requirement to reach a final MHTC decision on an issue before review by suit or arbitration.

-If this bill divests MHTC of the authority it is required to have by federal law to receive federal-aid highway funding, MHTC could lose all of its federal-aid highway funding. As such, the bill would also conflict with Section 226.150, which directs MHTC/MoDOT to comply with federal regulations in order to fully receive its federal money. In addition, the arbitration of substantially more project disputes and controversies would result in increased cost and project delay, thereby delaying the completion of projects and reducing the number of highway construction and improvement projects MHTC could undertake.

-This proposal may be in violation of 23 CFR 635.124, because an award by an arbitration panel may not satisfy justification of federal participation. Therefore, MoDOT would lose federal funding due to these arbitration awards.

-Additionally, construction disputes will be resolved by an arbitration board rather than through the court system. Currently, MoDOT has a very good track record on resolving disputes. Since the contractor would not have to pay for court expenses if the dispute goes to arbitration, MoDOT believes that there will be an increase in frivolous claims.

**Oversight** assumes the potential unknown negative impact addressed by MoDOT is speculative in nature. The response addressed the possible secondary effects of the proposal, however, no direct fiscal impact was indicated.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<b>GENERAL REVENUE</b>			
<u>Cost - Inspector General's Office</u>			
Personal Service for 2 FTE (Inspector General and Executive Secretary)	(Unknown greater than \$102,712)	(Unknown greater than \$120,248)	(Unknown greater than \$120,248)
Fringe Benefits	(Unknown greater than \$41,567)	(Unknown greater than \$48,664)	(Unknown greater than \$48,664)
Expense and Equipment	(Unknown greater than \$17,270)	(Unknown greater than \$7,150)	(Unknown greater than \$7,150)
<u>Total Cost*</u>	<u>(Unknown greater than \$161,549)</u>	<u>(Unknown greater than \$176,062)</u>	<u>(Unknown greater than \$176,062)</u>
<b>NET ESTIMATED EFFECT ON GENERAL REVENUE</b>	<b><u>(Unknown greater than \$161,549)</u></b>	<b><u>(Unknown greater than \$176,062)</u></b>	<b><u>(Unknown greater than \$176,062)</u></b>

\*Unknown cost is subject to appropriations and the request for additional personnel by the Inspector General.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<b>HIGHWAY FUND</b>			
<u>Savings-Department of Transportation</u>			
Personal Services from current staff	\$224,320	\$269,184	\$269,184
Fringe Benefits	\$106,529	\$127,835	\$127,835
Equipment and Expense*	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Total Savings-MoDOT</u>	<u>Unknown greater than \$330,849</u>	<u>Unknown greater than \$397,019</u>	<u>Unknown greater than \$397,019</u>
<b>NET ESTIMATED EFFECT ON HIGHWAY FUND</b>	<b><u>Unknown greater than \$330,849</u></b>	<b><u>Unknown greater than \$397,019</u></b>	<b><u>Unknown greater than \$397,019</u></b>

\*Unknown related expenses not expected to exceed \$100,000.

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal enacts various accountability measures for the operation of the Department of Transportation. This proposal could eliminate the Inspector General position currently with the Department of Transportation and create a new Inspector General position which acts as the director of the Joint Committee of Transportation.

This proposal creates arbitration provisions for certain disputes with the Department of Transportation.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements

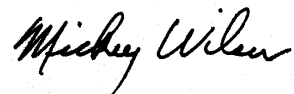
Additional rental space could be needed.

SOURCES OF INFORMATION

Office of Administration  
Office of State Courts Administrator

NOT RESPONDING

Department of Transportation



Mickey Wilson, CPA  
Director

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